

1 Sunethra Muralidhara
2 Nevada Bar No. 13549
3 Wright Marsh & Levy
4 300 S. Fourth Street, Suite 701
5 Las Vegas, NV 89101
6 Phone: (702) 382-4004
7 Fax: (702) 382-4800
8 smuralidhara@wmllawlv.com

9 Attorney for Defendant Smith

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK SMITH,

Defendant,

Case No. 2:15-CR-00269-RFB-BNW

UNOPPOSED MOTION TO MODIFY
CONDITIONS OF PRETRIAL RELEASE
AND PROPOSED ORDER

The Defendant, Mark Smith, through his attorney, Sunethra Muralidhara Esq., Wright Marsh & Levy, respectfully moves this Honorable Court to modify conditions of his pretrial release by removing drug testing requirements and modifying employment conditions. The government and Pretrial Services are in agreement with the Defendant's request. Thus, this motion is filed unopposed.

ARGUMENT

On October 8, 2015, Mr. Smith was ordered released on a personal recognizance bond. ECF 5. He is required to abide by numerous conditions, including but not limited to, and in pertinent part:

Condition 29—Employment—the defendant is prohibited from employment/self-employment in a setting where he has access to financial transactions or the personal identifiers of another.

Condition 38—Substance Abuse Testing and Treatment—The defendant shall submit to any testing required by Pretrial Services...to determine whether the defendant is using a prohibited substance...

1 **Condition 39**—The defendant shall pay for all or part of the cost of the
2 testing program...

3 **Condition 74**—Other Conditions—Do not obtain/engage in employment
4 involving the solicitation of money.

5 ECF 5. Mr. Smith entered into a plea agreement on October 8, 2015. ECF 6. His
6 sentencing is currently set for August 22, 2019 at 2:00 p.m.

7 Mr. Smith has been doing exceptionally well during his 3.5 years on pretrial supervision. He
8 has never tested positive for a controlled substance and has abided by all other conditions of pretrial
9 release. The parties and Pretrial agree that conditions 38 and 39 are no longer necessary given the
10 posture of the case and Mr. Smith's commitment to living a drug free lifestyle. Neither Pretrial Officer
11 Ronald Pease nor AUSA Daniel Cowhig has any objection to Mr. Smith's request to have conditions
12 38 and 39 removed.

13 Additionally, Mr. Smith requests this Court modify his employment conditions (conditions 29
14 and 74) as the current conditions are not reasonably tailored given the offense conduct and are no longer
15 appropriate given the status of Mr. Smith's case. The concern here is that under the current conditions,
16 Mr. Smith is precluded from working in a position where he could have access to credit cards and
17 transactions, for example, working for a company where he would take down a credit card number to
18 make a customer purchase, or run a credit card transaction. The parties and Pretrial agree that these
19 conditions are overly burdensome and not applicable to Mr. Smith's case. The parties request conditions
20 29 and 74 be removed and modified to:

- 21 • **Proposed Condition**— Defendant refrain from employment in the telemarketing
22 industry only where the defendant would be involved in the marketing of
23 goods/services that pertain to the underlying offense (i.e. grant writing, banking,
24 underwriting, mortgages).

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1 **CONCLUSION**

2 Accordingly, we are respectfully requesting this Court modify the conditions of Mr. Smith's
3 release by removing the above conditions and modifying the conditions of his employment.

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5 DATED: June 19, 2019.

6 Respectfully submitted:

7 WRIGHT MARSH & LEVY

8 By: /s/ Sunethra Muralidhara
9 Sunethra Muralidhara
10 Attorney for Mark Smith
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14 **ORDER**

15 IT IS SO ORDERED.

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18 RICHARD F. BOULWARE, II
19 UNITED STATES DISTRICT JUDGE

20 DATE: June 20, 2019.
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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 MARK SMITH,

7 Defendant,
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Case No. 2:15-CR-00269-RFB-BNW

[PROPOSED] ORDER GRANTING
MODIFICATION OF PRETRIAL RELEASE
CONDITIONS

9
10 Based on Defendant's Unopposed Motion to Modify Conditions of Release, and good cause
11 appearing,

12 IT IS HEREBY ORDERED: that the conditions of Defendant Smith's Pretrial release be
13 modified as follows:

- 14 1. Mr. Smith is no longer required to submit to Pretrial Services for drug testing. Conditions 38
15 and 39 are removed from his Pretrial release conditions. *See* ECF 5.
16 2. Mr. Smith's employment conditions 29 and 74 are removed and a new condition ordered:
17 • Defendant refrain from employment in the telemarketing industry only where the
18 defendant would be involved in the marketing of goods/services that pertain to the
19 underlying offense (i.e. grant writing, banking, underwriting, mortgages).
20 3. All other conditions of Pretrial Supervision remain in effect.

21 IT IS SO ORDERED

22 DATE: _____
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The Honorable Richard F. Boulware II
United States District Judge
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